

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 ANAHITA S. CRAWFORD, State Bar No. 209545  
Deputy Attorney General  
4 1300 I Street, Suite 125  
P.O. Box 944255  
5 Sacramento, CA 94244-2550  
Telephone: (916) 322-8311  
6 Facsimile: (916) 327-8643

7 Attorneys for Complainant

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-193

13 MICHAEL WARREN,  
a.k.a. MICHAEL JOSEPH WARREN  
14 313 Princeton Avenue  
Bayville, New Jersey 08721

**A C C U S A T I O N**

15 Registered Nurse License No. 636101

16 Respondent.  
17

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation  
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing  
22 ("Board"), Department of Consumer Affairs.

23 2. On or about April 13, 2004, the Board issued Registered Nurse License  
24 Number 636101 to Michael Warren, also known as Michael Joseph Warren ("Respondent").  
25 Respondent's registered nurse license was in full force and effect at all times relevant to the  
26 charges brought herein and will expire on June 30, 2009, unless renewed.

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3. Business and Professions Code ("Code") section 2750 provides, in

4. Code section 2764 provides, in pertinent part, that the expiration of a

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

• • • •

(f) Conviction of a felony or of any offense substantially related to the

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

• • • •

(b) Use any controlled substance as defined in Division 10

(c) Be convicted of a criminal offense involving the prescription, distribution, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in each event the record of the conviction is conclusive evidence thereof . . .

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1                   **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS AT ISSUE**

2                   11.     "Provigil", a trade name for modafinil, is a Schedule IV controlled  
3 substance as designated by Health and Safety Code section 11057, subdivision (f)(3).

4                   12.     "Effexor" is a dangerous drug within the meaning of Code section 4022 in  
5 that it requires a prescription under federal law.

6                   13.     "Klonopin," a brand of clonazepam, is a Schedule IV controlled substance  
7 as designated by Health and Safety Code section 11057, subdivision (d)(7).

8                   14.     "Benzodiazopine" is a generic classification for drugs consisting of  
9 Schedule IV controlled substances and dangerous drugs within the meaning of Business and  
10 Professions Code section 4022 (drugs requiring a prescription under federal law).

11                                   **FIRST CAUSE FOR DISCIPLINE**

12   **(Criminal Conviction)**

13                   15.     Respondent is subject to disciplinary action pursuant to Code section  
14 2761, subdivision (f), in that on or about December 9, 2008, in the criminal proceeding titled  
15 *People v. Michael Joseph Warren* (Super. Ct. Stanislaus County, 2008, Case No. 1233967),  
16 Respondent pled guilty to violating Vehicle Code section 23152, subdivision (a) (driving while  
17 under the influence of alcohol and/or drugs, a misdemeanor), a crime substantially related to the  
18 qualifications, functions, and duties of a registered nurse. Respondent was also charged with  
19 violating Code section 4140 (possession of a needle/syringe), but that charge was dismissed in  
20 view of Respondent's plea, as set forth above.

21                   16.     The circumstances of the crime are as follows: On or about August 17,  
22 2007, an officer with the Oakdale Police Department was notified of a DUI collision at 7:28 a.m.  
23 The officer contacted Respondent at the scene and observed that he was unsteady on his feet, his  
24 eyes were glassy and red, his speech was slow, and he seemed confused. Respondent told the  
25 officer that he takes several prescription medications including Provigil, Effexor, Klonopin, and  
26 "some type of benzodiazapene". Respondent stated that he was supposed to be going back to  
27 work (Respondent was wearing scrubs and had an identification card for Doctor's Medical  
28 Center in Modesto). The officer searched Respondent's vehicle and located a 3 mm syringe in a

1 sealed package. Respondent admitted to the officer that he had taken some prescription  
2 medications. The officer later observed that Respondent had a puncture mark with dried blood  
3 on each of his arms.

#### 4 **SECOND CAUSE FOR DISCIPLINE**

##### 5 **(Use of Alcoholic Beverages, Controlled Substances, and/or Dangerous Drugs 6 to an Extent or in a Manner Dangerous or Injurious to Oneself or Others)**

7 17. Respondent is subject to disciplinary action pursuant to Code section  
8 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section  
9 2762, subdivision (b), in that on or about August 17, 2007, Respondent used controlled  
10 substances, including, but not limited to, Provigil and Klonopin, dangerous drugs, including, but  
11 not limited to, Effexor, and/or consumed alcoholic beverages to an extent or in a manner  
12 dangerous or injurious to himself and others, as set forth in paragraphs 15 and 16 above.

#### 13 **THIRD CAUSE FOR DISCIPLINE**

##### 14 **(Conviction Related to Self-Administration of Controlled Substances 15 and Dangerous Drugs, and Consumption of Alcoholic Beverages)**

16 18. Respondent is subject to disciplinary action pursuant to Code section  
17 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section  
18 2762, subdivision (c), in that on or about December 9, 2008, Respondent was convicted of a  
19 criminal offense involving the prescription, consumption and/or self-administration of controlled  
20 substances and/or dangerous drugs and/or the consumption of alcoholic beverages, as set forth in  
21 paragraph 15 above.

#### 22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
24 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


- 25 1. Revoking or suspending Registered Nurse License Number 636101, issued  
26 to Michael Warren, also known as Michael Joseph Warren;
- 27 2. Ordering Michael Warren, also known as Michael Joseph Warren, to pay

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1 the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this  
2 case, pursuant to Business and Professions Code section 125.3;

3 3. Taking such other and further action as deemed necessary and proper.

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5 DATED: 3/5/09

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7   
8 RUTH ANN TERRY, M.P.H., R.N.  
9 Executive Officer  
10 Board of Registered Nursing  
11 Department of Consumer Affairs  
12 State of California

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Complainant